

Planning Commission Hearing Minutes March 10, 2014

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash Alderman Russell Kate McConnell Bill Ryan	Andrew Brown	Gabrielle Dunn-Division Manager for Current Planning Brandon Mark-City Planner Lisa Mroszczyk-Murphy-HPC Planner Devon Hahn-City Traffic Engineer Scott Waxter- Assistant City Attorney Carreanne Eyler –Administrative Assistant

I. ANNOUNCEMENTS:

Ms. Dunn announced that the Planning Commission has their packet of information for workshop on Monday, March 17, 2014 however; the information for the City's CIP is not included and will be forwarded via email when complete.

II. APPROVAL OF MINUTES:

Approval of the **February 10, 2014** Pre-Planning Commission Meeting Minutes as published:

MOTION: Commissioner McConnell.

SECOND: Commissioner Ryan.

VOTE: 4-0.

Approval of the **January 13, 2014** Planning Commission Meeting Minutes as published:

MOTION: Commissioner Ryan.

SECOND: Alderman Russell.

VOTE: 3-1. (Commissioner McConnell abstained)

Approval of the **March 7, 2014** Pre-Planning Commission Meeting Minutes as published:
Minutes were tabled until the April 14, 2014 Planning Commission Hearing.

III. PUBLIC HEARING-SWEARING IN:

"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth." If so, answer "I do".

IV. PUBLIC HEARING-CONSENT ITEMS:

(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present – Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda. If you would like any of the items

below considered separately, please say so when the Planning Commission Chairman announces the Consent Agenda.)

~NONE~

V. CONTINUANCES:

A. PC13-813FSU, Final Subdivision Plat, Lots 1A & 1B, Section I, East Street Industrial Park

MOTION: Commissioner Ryan moved to continue final subdivision Plat PC13-813FSU for up to 90 days to no later than the June 9, 2014 PC Hearing.
SECOND: Commissioner McConnell.
VOTE: 4-0.

B. PC14-056FSCB, Combined Forest Stand Delineation/Preliminary Forest Conservation Plan, Lots 1A & 1B, Section I, East Street Industrial Park

Planning Commission Action:

MOTION: Commissioner McConnell moved to continue combined forest stand delineation/preliminary forest conservation plan PC14-056FSCB for up to 90 days to no later than the June 9, 2014 PC Hearing.
SECOND: Commissioner Ryan.
VOTE: 4-0.

C. PC13-541MU, Master Plan, Monocacy Center

Planning Commission Action:

MOTION: Commissioner Ryan moved to continue master plan PC13-541MU for Monocacy Center to the April 14, 2014 PC Hearing.
SECOND: Commissioner Ryan.
VOTE: 4-0.

VI. NEW BUSINESS:

D. PC12-836FSU, Final Subdivision Plat, West Park Village Lots 1 & 2, Block A

Mr. Mark entered the entire staff report into the record. There was no public comment on this item.

Planning Commission Action for Deferral of Frontage Improvements:

MOTION: Commissioner McConnell moved for a positive recommendation to the Mayor & Board of Aldermen to defer the necessary frontage improvements along Mount Philip Road until the further subdivision of Lot 2 in accordance with the West Park Village master plan, subject to Section 506(c) of the LMC.

SECOND: Commissioner Ryan.

VOTE: 4-0.

Planning Commission Action for PC12-836FSU:

MOTION: Commissioner McConnell moved for the approval of final subdivision plat PC12-836FSU with the 2 conditions to be met in less than 60 days and the 2 conditions to be met in greater than 60 days and less than one year as read into the record by staff.

SECOND: Commissioner Ryan.

VOTE: 4-0.

E. PC14-044ZMA, Zoning Map Amendment, Coca-Cola Historic Preservation Overlay

Mrs. Mroszczyk Murphy entered the entire staff report into the record. There was public comment on this item.

Public Comment:

Scott Winette, Chair of the Historic Preservation Commission, stated that the HPC reviewed the staff report and took testimony at the February 18, 2014 hearing on HPC/PC14-044ZMA which requested approval for the application of the Historic Preservation Overlay (HPO) zoned to the former Coca-Cola Bottling plant. After careful consideration and discussion, the Historic Preservation Commission voted 4-1 to recommend approval of the request.

Gail Bradley of 24 W. 12th Street stated that she would like to ask the Planning Commission to deny the request for the HPO because the building is in a terrible state of disrepair as it stands. She added the front façade is also crumbling and currently part of it is held together by wire retaining straps. Ms. Bradley stated that we have a viable person interested in doing something with the property who has expressed sincere interest in maintaining that façade which is really the only unique portion of that building. She doesn't like the feel of the Historic Preservation Commission stepping outside of the historic district and feels that encouraging the overlay would cause additional hassles of being in the historic district along with having an empty building sitting there when it will have to be demolition by neglect and we will lose the whole thing.

Anthony Moscato, Chair for the Frederick Preservation Trust, stated that they agree with the city staff report and the city HPC recommendation and urges the commission to designate the Coca-Cola bottling plant site in its entirety as eligible for a HPO given its historical and cultural significance to the City of Frederick. He added that staff members of the Maryland Historical Trust and the National Register of Historic Places has agreed that the site in its entirety would be eligible for the National Register thereby any demolition of the site likely would preclude the use of preservation related tax credits for any

remaining structures. He concluded by urging the Commission to find and recommend to the Mayor & Board of Aldermen that the Coca-Cola Bottling plant is historically significant and deserving of an HPO.

Dale Dowling of 121 W. 2nd Street stated that this building is an Art Deco style and what we find with this Coca-Cola plant is from plans from an earlier period which was completely representative of what was going on in the United States at that time. Many buildings that were built in the post-war period were designed before or during the war. She feels that the site needs protected.

Scott Winette of 9 East South Street, speaking as a resident, urged the Commission to work with the HPC in designating the HPO over many of the properties in the City's current Comprehensive Plan lifted up as significant enough for preservation. He urged the Commission to forward to the Mayor & Board of Aldermen your agreement with the HPC recommendation and review the letter to Mrs. Mroszczyk-Murphy dated January 24, 2014 regarding any possibilities of an historic easement.

Mike Bradley of W. 12th Street stated that he would like to get a memorandum of understanding from the developer where they will not have to go the full overlay because we will have people walking away from the table. We have a 2 acre lot down the road that will ultimately be still sitting there when done. He feels that the overlay will push viable offers away and that it should not be placed on the plant.

Curtis Etherly, Director of Public Affairs/Communications of Coca-Cola Refreshments Inc., stated that they are looking for a common ground to find the next best possible chapter for this property where it preserves the best and most unique aspects of the property while ensuring that it continues to contribute to the health and vitality of the corridor and of Frederick in a positive and vibrant way. He stated there is a concern of what happens to the building if an overlay is not recommended and would emphasize that at any point prior to this process the building could have come down and we would have been well within the owner's right to do so. He stated that what he is concerned about is that when the Company looks at scarce resources to support other operations for nearly 2,000 employees in the State of Maryland at other operational facilities that those important resources for upkeep, building maintenance and operations will go first and foremost to our operating facilities. He would like the Commission to deeply consider and deliberate before moving forward with this overlay.

Trisha Beisler, Catoctin Overlook, stated she feels that placing an overlay on the property would be inappropriate as it does not meet the National Register criteria especially in consideration of its location. The building in its bottling enterprise did not significantly contribute to the broad patterns of Frederick's history like local events and contributions made to the Civil War. She stated that this building was built post- World War II in late 1940s and went significantly against the national trend at that time of extremely modern and sleek design. The value of this property largely resides in its connection with Coca-Cola and the good feelings the Coke engenders. She stated that the streetscape and the front façade embody this value but the warehouse or the rear portion of the main building have no correlation to the Coke relationship or interesting detailing. She went on to say that if the goal is to save the Coca-Cola property from further decay and honor its past and bring it back to life, she is confident that their proposed plan to adaptively repurpose the front of the main building and place multi-family housing in the rear of the property achieves that goal. The major concern they have on the HPC level of this process on the new Demolition Delay Ordinance and holding them accountable of maintaining the streetscape if the property is not granted an overlay. She said that she is open to and would appreciate any creative and innovative suggestions that hold her accountable to her intentions to be a good steward of the Coke property without the hardship of a full overlay.

Andrew DiPasquale, Law Office of Andrew DiPasquale, stated that the ordinance was originally drafted only to prevent demolition to an entirety of a structure. He went on to say that it came about that this ordinance would apply to partial demolitions to avoid “piece meal” demolitions. He added that the Commission has two birds in one hand, the property owner and the applicant stating their intent. He stated in reference to the Comprehensive Plan, that the City identified and adopted these properties as being eligible for designation and he isn’t sure what that means because placing a name on a list and a dot on a map doesn’t make it evident it enough to make it historic. He said he is still not sold that this is historic. He said compatibility with the plan is entirely on what lens you are wearing and this evening he was looking at in terms of long term sustainability, private investment within the City and predictability in the planning process. He stated that it is counterintuitive that either Coca-Cola or Catoctin Overlook would do anything opposite to what they have stated. Mr. DiPasquale urged the Commission to not recommend the overlay for this property and let them have their discourse at the development stage which will then not be premature. There is no intent to demolish this property.

Planning Commission Action:

MOTION: Commissioner McConnell moved for a positive recommendation to the Mayor & Board of Aldermen for the rezoning of the Coca-Cola Bottling Plant, 1705 North Market Street, in order to apply the Historic Preservation Overlay (HPO) zone while maintaining the base zone of NC.

SECOND: Commissioner Ryan.

VOTE: 4-0.

F. PC13-055FSU, Final Subdivision Plat, North Montevue Campus/Citizens Nursing Home

Ms. Dunn entered the entire staff report into the record. There was public comment on this item.

Public Comment:

Nancy Hartten of 89 Ashely Court, Myersville submitted a letter and read it for the record which stated she urged the Commission to vote against the subdivision.

Roland Clark of Adamstown stated that he has concerns of what may be around the site. He feels that the Commission should post pone their decision until RABB finishes their work and the reports have come back. He has concerns of long term health effects.

Carol Krimm (former Alderman) stated that she feels the public should have an opportunity to review the title report before the Planning Commission makes a decision. She stated that while in office, she addressed to the Mayor & Board that a presentation should be given by Fort Detrick and the Clean Up Corporation because she felt it was important to know that this site is a Superfund Site.

Joseph Berman of 233 E. 2nd Street stated that the major concern he has is a potential sale of the property. He feels the County is neglecting the elderly people that need assistance and it is irresponsible. He added that the Board of County Commissioners (BOCC) has not put forth any plan to take care of these people who are in a lengthening line in the County.

Charles Trunk of 506 Fairview Avenue stated that this application is flawed in that the County already declared properties are excess properties.

Paul Gordon of 202 Meadowdale Lane stated that what bothers him most is its history which is the reason why it should remain with the use it now has. He said the deed is as what it states and we have people that need Montevue.

Vincent Parmesano 227 E. 4th Street stated that before the subdivision there are two things: a nursing home which will be a nursing home after the subdivision but there is an assisted living facility and he questioned what will happen to that. He said while nursing homes and assisted facilities are lumped together in the LMC they have different functions as well as different requirements. It would be in the purview of the Planning Commission to determine what actions are going to be taken to counter the downward trend for Montevue and what will be the proposed uses of facilities on Lot 1 when the subdivision is approved.

Tim Wilson of Brunswick, Maryland stated that if we look at the decision and look at it in a historical perspective and take the decision as people of Frederick County to make it our priority in making sure that our elderly population is cared for to our fullest capabilities.

George Rudy of 133 W. 3rd Street distributed and read a letter into the record which stated concerns for public health and safety and his opposition of this project.

Sonja Sperlich of Middletown stated that she is opposed to the County's request to subdivide this property to dispose of a badly needed facility. She added that the "Needs Assessment Aging Population" in Frederick County, MD clearly states "services and support vulnerable older residents are overwhelmed ". She doesn't understand why the Planning Commission is even considering this prior to the court since the ZBA decision has been appealed by the County to the Circuit Court and urges the Commission to postpone their decision.

Bob Logan of 2592 Bear Den Road had submitted a letter for the record via email to staff and the Planning Commission stating his concerns and requests that the Planning Commission defer their decision until after the appeal is finalized. He feels that continuing with this while the appeals are ongoing does not bode well regarding transparency and citizen's rights.

Leslie Powell of Powell & Flynn stated that the use is not permitted by right if the use is sold to a for-profit company which will not honor the restrictive covenant. The restrictive covenant says that the use and benefit of poor in Frederick County for no other use or purpose whatsoever. She added that this is a serious issue which deserves serious consideration. By proceeding, the Commission is creating the risk of completely inconsistent results and isn't sure what they are doing other than creating a tremendous opportunity for a bigger issue than already exists. She respectfully asked to defer any decision on this case until the Circuit Court interprets the LMC and advises the Commission on what they should consider.

Paul Flynn of Powell & Flynn feels that no action should be taken until the Applicants' petition; the County's petition, to the Circuit Court on the very same issues that are now before this Commission is resolved because to do so would wade into legal questions that are not in the scope of this Commission's review. He stated that we do know now that it is moving forward as a public sale it is part of the public record. We are at risk of repeating our errors from April 2013. He said to park this case until the Circuit

Court tells all of us what the LMC means. He feels there is conflicting language in that document. He submitted a copy of an article into the record dated Tuesday, October 22, 2013 titled "County responds to open meetings complaint" as well as copies of pages from Merriam-Webster dictionary.

Cindy Powell of 310 E. Church Street submitted documentation for the record. She stated that she concurred with previous speakers and that county had no background information about the needs of our poorest and frailest elderly citizens before they made the decision to sell citizens and close Montevue and did it with no plan in place to replace the services at Montevue or to offer any additional services. She feels that the health, safety and welfare of the community are in the hands of the Planning Commission.

Melanie Cox of 8222 Glendale Drive stated that she is against the subdivision and the living arrangement for the elderly will be eliminated and Montevue will cease to exist. She stated that we stand out in one area in this state and it is the assisted living for the indigent elderly. If this subdivision goes through that one place we stand out will be eliminated.

Valerie Vale of New Market stated that she has many concerns that there are so many different players that are involved in this. She stated that the Planning Commission should take the wise path that the Board of Public Works took and defer the decision until the courts make their decision.

Kimberly Mellon of Cascade, Maryland has concerns of public health and safety of the people.

Commissioner Gray stated that this decision by the BOCC is not unanimous. He added that pending legislation is in conflict with this decision that is one reason to delay along with the RABB report. There is no point in putting a new element in all the court confusion. Only makes common sense to delay until the RABB and court issues are settled. He stated that the County Comprehensive Plan spoke to the need of services and see that this subdivision process is one step on the way to selling this facility which is crumbling before us. It may not be consistent with the Comprehensive Plan so at least wait until the RABB and court issues are settled before making a decision.

Planning Commission Action:

MOTION: Alderman Russell moved to continue PC13-055FSU, North Montevue Campus/Citizens Nursing Home to the May 12, 2014 Planning Commission Hearing due to the need of research new information that has been present to the Commission this evening.

SECOND: Commissioner McConnell.

VOTE: 4-0.

G. PC12-015ZTA, Zoning Text Amendment, Appeals of Planning Decisions

Ms. Dunn entered the entire staff report into the record. There was public comment on this item.

Public Comment:

Bob Logan feels that all of the Commission's decisions have been rubber stamped by the staff recommendation. He stated that if the City is going to change the procedures and the text amendment, that a committee should be formed to consider the change before it is even recommended.

Charles Trunk feels that the ZBA decision should not be changed.

Cindy Powell of 310 E. Church Street stated that anything that forces individual citizens to come up with more money for more attorneys just makes it harder to speak your peace before your fellow citizens. If you are going to have citizen participation then anything that is more costly is probably not a good idea.

Planning Commission Action:

MOTION: Commissioner McConnell moved to make a positive recommendation to the Mayor & Board of Aldermen for the amendments as proposed in the staff report for text amendment PC12-157ZTA dated March 3, 2014 with a drafted letter signed by Chair Meta Nash.
SECOND: Commissioner Ryan.
VOTE: 4-0.

There was no further business.

Meeting adjourned approximately at 10:30 p.m.

Respectfully Submitted,

Carreanne Eyler
Administrative Assistant